VIRGINIA LAW REGISTER

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Codes of Ethics.

The Committee on Code of Professional Ethics of the American Bar Association, of which Harry St. George Tucker is Chairman, Mr. Justice Brewer and Judge Alton B. Parker, are amongst the members, has submitted its report and requests criticism and suggestions. The proposed Code is a most excellent statement of the duties of a lawyer to his client, the courts, the community and himself. Most of its provisions will seem very familiar to members of the Virginia Bar Association, as they seem to be taken almost bodily from the Code of Ethics which was adopted by that body in 1889. We do not wonder at it; for we do not think that Code could be improved upon. The Committee recommends that an oath be required of each lawyer admitted to practice, as follows:

> "I do solemnly swear: I will support the Constitution of the United States and the constitution of the State of ————; I will maintain the respect due to courts of justice and judicial officers; I will counsel and maintain only such actions proceedings and defenses as appear to me legally debatable and just, except the defense of a person charged with a public offense; I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law; I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval; I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged; I will never reject from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. SO HELP ME GOD."

That this oath sets out in clear language the general principles.

which should ever control the lawyer in the practice of his profession, is beyond doubt; but if administered as oaths are generally administered in most courts of justice, we very much doubt if the applicant for admission will be either impressed with its solemnity or charge his mind with its obligations. The brief Virginia oath that 'he will honestly demean himself in the practice of law and to the best of his ability execute his office as attorney at law," seems to us as much swearing as is necessary; for upon these two obligations, which an attorney assumes in Virginia, hang all the law and the prophets. It may be said that the attention of the lawyer who is to be, is more clearly called to the high duties incumbent upon him when he reads or signs this oath. He who waits until he is sworn in as an attorney to know these duties will never regard them, oath or no oath. Our law schools should have a few lectures on professional ethics. Each applicant for a degree should be required to read this Code, or one like it, and be able to stand an examination on it, and no man be admitted to practice until he had been asked if he had read this Code, duly considered it and expected to live up to it. This would be far better than going through the form of oath taking as practiced in our courts.

Oaths in General.

It is in one of Marryatt's novels, we believe, that a worthy gentleman who had lately been converted by a pretty wife to Quakerism, was asked if he was willing to make oath—was it not as to Jacob Faithful's guilt or innocence? We all remember the earnestness with which he broke out—"Yes! Yes! G—d d—mn, I will make as many oaths as you wish. D—mn, d—mn!" Equally do we recall the clerk in the immortal Pickwick, with his, "So-help-you-God-give-me-a-shilling-for-I-havn't-got-the-change."

An oath is an appeal to the most awful Power—to the Great Judge, for aid in the hour when *truth* is to be tested or *fidelity* pledged. It is either one of the most solemn occasions of a man's life or a mummery. Have not our courts and all other officials relegated it from its high place very nearly to low comedy? Administered often amidst a babbling crowd, or at best in the most

perfunctory manner, it has lost all dignity, solemnity, and too often we fear sanctity.

Some modern law reformers have advocated its entire abolition, making any false statement on the witness stand perjury, and as a substitute for the oath, a charge from the Judge to the witness of the consequences of a false statement. We do not believe the time is ripe for such a reform, but we do believe that our courts should see to it that oaths should be administered with more dignity and solemnity and witnesses reminded of the solemn nature of their obligation.

Legal Education.

The University of Virginia has advanced the time required for graduation with the degree of B. L. in its Law School to three years. This has been done, we suppose, to allow it to enter the Association of American Law Schools, which requires as a pre-requisite for admission: First, a reasonably high standard of entrance requirement; and, second, a full three years' course of study.

To the old students of the old days, with the Jeffersonian horror of anything looking like a curriculum, this innovation will be no more pleasant than the two years' course which has now been in vogue some years. But it is useless to attempt now to stem the tide of change which is taking place in that Institution, and we believe that this step was necessary in order to keep the law school in the high place it has always occupied. Whether it will turn out any better lawyers than it has done under the old regime, remains to be seen. A more serious question, it seems to us is not so much the time spent in studying law, but the preliminary education which the law student should have before entering the law school. A mind crammed with general propositions of law and running over with the study of cases, will be but a mind befogged, unless the mind has previously been trained to work and well disciplined. It would be like a ship at sea with a hundred searchlights but a disarranged compass.

No profession needs preliminary education as much as the legal one.

No man ought to be allowed to enter a law school who has not been well grounded in the English language and literature,

who is not a fair Latin scholar, and who cannot read at least one modern language. He should be well grounded in history, in economics and should have studied logic thoroughly. A bachelor's degree at least ought to be required and Latin to be part of such a degree.

The objection to this is the time consumed. Few men ought to enter college before they are seventeen—eighteen would be better. Four years in collegiate study would bring the applicant for the Law School to twenty-one. With the three year course added, a man arrives at the age of twenty-four before he can set to work. How many men can afford to be at college that long?

The truth is our Law Schools attempt to teach too many things, in our judgment. Case study is of very doubtful value unless the student is taught how to study and how to value cases. The great basic principles of the law universal ought to be taught first. The common law should be taught with thoroughness, and the opinions of the great judges which the Common Law System has produced, should be the first case law studied and mastered. The modification of the Common Law by statutes must necessarily be taught; and pleading be mastered as far as it can be by mere study. As law schools are attended by students from all over the Union, to specialize on the statutes peculiar to any one state is to waste the time of many students. In the three years course some method should be evolved to specialize for one or more groups of students a course of law peculiar to their own state, or group of states with similar laws. Else throw case law and statute law peculiar to any one state out of the question and teach principles alone. Of "case made," and "case" lawyers and judges we have a sufficiency. "Oh for an hour of Dundee."

Uniformity of Laws.

The success which has attended the operation of the Negotiable Instruments Law ought to put courage into the hearts of all lawyers who desire to see an ultimate codification of those laws which should be uniform throughout the United States. The most ardent believer in States Rights cannot—or should not—object to a uniformity in those laws which between man and man are practically the same from the standpoint of simple justice, but

which ill advised legislatures, or unwise judges, or foolish custom, have made so diverse. There is no more reason why the Law of Sales should not be the same in Maine as in California or the Law of Divorce in Texas as in Dakota. Laws concerning real estate may well conform to the peculiar nature of the people of the different sections, because transactions regarding it must nearly always take place in the local site, and *Land* must always remain the land of its own people, to be disposed of and regulated by those of it and on it.

But why should not the various states of this Union adopt a uniform Law of Sales?

Taking the English "Sale of Goods Act," 56 & 57 Vict. c. 51, Feb. 20th, 1894, as a basis, one or more of the states of the Union have adopted an Act, which whilst in the main declatory in its effect, avoids the conflict of law with other jurisdiction and brings a uniformity and clearness much to be desired. Would it not be well for the Bar Association of the states to take up this matter, as they did the Negotiable Instrument Law, and press it to a conclusion?

The outposts of archaic laws and statutory confusion must be taken one by one. Each victory means one step further in the progress of wisdom and reform. Why not begin now?

United States Circuit Court of Appeals.

In the June and July numbers of *The Bar* (West Va.), the leading article is devoted to the condition of business in the 4th Circuit of the United States Circuit Court of Appeals, and the writer makes a strong appeal for re-enforcement for that court. We have always thought that the present system of this Intermediate Appellate Court lacked much of perfection and the contemplation of many of the decisions from the different circuits shows that in a few years "confusion will be worse confounded" as to what is the law in the Federal Courts, the law in one circuit made by judicial decision being almost the exact opposite of that in another. Before the law was amended in regard to patent cases we had the agreeable spectacle of a patent being held good in one circuit and absolutely void

in another, and if one had patience to wade through that ever increasing and fearful array of volumes known as Circuit Court of Appeals Reports, he would no doubt find many similar cases. The writer uses one argument so strong that we quote it in full:—

> It is true that occasionally a state Court of Appeals promulgates an opinion that is not received with enthusiasm by the defeated party, and sometimes a State Supreme Court may err; but if we contemplate that possibility in the state courts, where the judges have so many greater advantages and opportunities for attaining perfection—how much more likely is it that injustice will creep in where a court is made up of a rotating, changing constituency of gentlemen away from home, called on for extra duties, provided with no conveniences, and placed at every disadvantage, denied leisure for consideration, opportunity for conference, or for digestion or mutual discussion, and, perhaps, obliged to give an essay, written from a distance, amid the exactions of hardship, to contribute to a symposium, on a subject arising under the laws of a state seen only on a map.
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> How embarrassing it must be to be called on to review the action of each other, when from time to time the decisions from below come to be passed upon by justices who are likewise trial judges.

The whole scheme of the Federal Courts, as the writer states, ncludes three circuit judges at least to each circuit. There are only two in the five states which constitute the fourth District. With the vastly growing amount of Federal business, which will not be at all lessened in case the continued advance is made in Federal encroachment upon the reserved powers of the states, a court more stable in its personnel, with more time for calm deliberation and careful research, is necessary. Certainly Virginia, West Virginia, Maryland, North Carolina and South Carolina deserve and should have a full bench, with all the time and facilities possible for the consideration of the important cases which are constantly arising in the Federal tribunal. If we are to have the Federal Courts, then let them be well manned, thoroughly equipped and able to keep their dockets clear.